

BEFORE THE BOARD OF HORSE RACING
DEPARTMENT OF LIVESTOCK
STATE OF MONTANA

In the matter of the proposed adoption of)	NOTICE OF PROPOSED
NEW RULES I-VIII pertaining to advance)	ADOPTION
deposit account wagering on horse racing)	
and greyhound racing)	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Concerned Persons

1. On February 16, 2008, the Board of Horse Racing proposes to adopt the above-stated rules.

2. The Board of Horse Racing will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Horse Racing no later than 5:00 p.m. on February 7, 2008, to advise us of the nature of the accommodation that you need. Please contact Marlys Stark, P.O. Box 200512, Helena, MT 59620-0512; phone (406) 444-4287; TTD number: 1-800-253-4091; fax: (406) 444-4305; e-mail: mstark@mt.gov.

3. The rules as proposed for adoption provide as follows:

NEW RULE I ADVANCE DEPOSIT WAGERING DEFINITIONS In this subchapter, the following definitions apply:

(1) "Account" means an account for advance deposit wagering with a specific identifiable record of credits, debits, deposits, wagers, and withdrawals established by an account holder and managed by a licensed advance deposit wagering hub licensee.

(2) "Account holder" means a natural person, at least eighteen years of age, residing within or outside of Montana for whom a licensed advance deposit wagering licensee has opened an account.

(3) "Account number" means a unique identification number consisting of numbers or letters as designated or selected by the account holder or advance deposit wagering hub licensee.

(4) "Advance deposit wagering" has the meaning set forth in 23-4-101, MCA.

(5) "Advance deposit wagering hub operator" or "hub operator" has the meaning set forth in 23-4-101, MCA.

(6) "Communications by other electronic means" means communication by any electronic communication device or combination of devices including, but not limited to, the following: personal computers, the internet, private networks, interactive televisions, and wireless communication technologies, or other technologies approved by the board.

(7) "Confidential information" means the following:

- (a) the amount of money credited to, debited from, withdrawn from, or present in any particular account holder's account;
 - (b) the amount of money wagered by a particular account holder on any race or series of races;
 - (c) the account number and secure personal identification code of a particular account holder;
 - (d) the identities of particular entries on which the account holder is wagering or has wagered;
 - (e) unless otherwise authorized by the account holder, the name, address, and any other information in the possession of a licensed advance deposit hub operator that would identify the account holder to anyone other than the board, the licensed advance deposit wagering hub operator, the regulatory authority in the state that regulates the licensed advance deposit wagering hub or as otherwise required by state or federal law; and
 - (f) credit and debit information.
- (8) "Credits" means all deposits of money into an account.
- (9) "Debits" means all withdrawals from an account.
- (10) "Deposits" means a payment of money by cash, check, money order, credit card, debit card, or electronic funds transfer made by an account holder to the account holder's account.
- (11) "Foreign jurisdiction" means a jurisdiction of a foreign country or political subdivision thereof.
- (12) "Hub contract" means a contract between a hub and the board. A hub contract may also be called a "license agreement."
- (13) "Plan of operation" or "operating plan" means a written document from an advance deposit wagering hub operator which must accompany the application for licensure and which provides sufficient detail to allow the board to identify processes for operation of the system, including: handling of unforeseen events; verification of account holder information; establishment of a dispute resolution process; withdrawal process; allowance for account holders residing outside of Montana; and any other information requested by the board.
- (14) "Principal residence address" means that place where the natural person submitting an application for an account resides at least fifty percent of the time during the calendar year.
- (15) "Proper identification" means a form of identification accepted in the normal course of business that establishes the person making the transaction is the account holder.
- (16) "Secure personal identification code" means an alpha and or numeric character code chosen by an account holder as a means by which the advance deposit wagering hub operator may verify a wager or account transaction as authorized by the account holder.
- (17) "Source market fee" has the meaning set forth in 23-4-101, MCA.
- (18) "Source market fee area" means the state of Montana.
- (19) "Withdrawal" means a payment from an account by the hub licensee to the account holder when properly requested by the account holder.

AUTH: 23-4-202, MCA

IMP: 23-4-101, 23-4-301, 23-4-302, MCA

REASON: The proposed new rule is necessary to create definitions of terms to be used for the advance deposit account wagering program and rules. This new program was authorized by HB 390 passed by the 2007 Montana Legislature.

NEW RULE II REQUIREMENTS TO CONDUCT ADVANCE DEPOSIT ACCOUNT WAGERING (1) The advance deposit wagering rules set forth in this chapter shall apply to the establishment and operation of accounts by a licensed hub operator for account holders whose principal residence address is in the state of Montana.

(2) Advance deposit wagering by any person whose principal residence address is in the state of Montana may be conducted only by a Montana-licensed hub operator licensed by the board pursuant to this chapter.

(3) No licensed hub operator shall solicit, accept, open, or operate an account for any person with a principal residence address in the state of Montana unless the hub operator has received a license in good standing from the board.

(4) The board may impose any license discipline, including suspension, revocation, or fines against a license to operate as a hub operator, if the licensed hub operator, its officers, directors, or employees violate any provision of Title 23, chapter 4, MCA, or any rule or order of the board.

(5) A licensed hub operator located within Montana shall not solicit, accept, open, or operate advance deposit wagering accounts for persons whose principal residence is outside of the state of Montana, including residents of foreign jurisdictions unless:

(a) the hub operator has received a license from the board, and the license is in good standing;

(b) wagering on that same type of live racing is lawful in the jurisdiction which is the person's principal residence; and

(c) the licensed hub operator complies with the provisions of the Interstate Horseracing Act, 15 U.S.C. 3001 to 3007, and the laws of the jurisdiction, which is the principal place of residence of the applicant.

(6) The licensed hub operator shall provide a bond or irrevocable letter of credit in an amount set by the board for the purpose of ensuring that payments to the board and to Montana account holders are made. In the alternative, a hub operator may provide other means of assurance of such payment including, but not limited to, evidence of bond(s), irrevocable letter(s) of credit, or other forms of financial guarantees posted and in good standing with regulatory authorities in other jurisdictions, which shall be subject to the approval of the board. Any bond, letter of credit, or other assurance of payment acceptable to the board provided by the hub operator shall run to the board as obligee, and shall be for the benefit of the board and any account holder who suffers a loss by reason of the hub operator's violation of Title 23, chapter 4, MCA, or these rules. The bond, letter of credit, or other assurance of payment shall be conditioned on the obligor as licensee faithfully complying with Title 23, chapter 4, MCA, and these rules. The bond shall be continuous and may be cancelled by the surety only upon the surety giving written notice to the board of its intent to cancel the bond. The notice of cancellation shall

be effective no sooner than thirty days after the notice is received by the board. In the event of cancellation of the bond, letter of credit, or other assurance of payment the hub operator shall file a new bond, letter of credit, or other assurance of payment prior to the effective date of the cancellation notice.

(7) Persons whose primary residence is within Montana shall not participate in advance deposit wagering unless such activity is conducted through a hub operator licensed in Montana.

(8) The content and frequency of reports from a licensed hub operator shall be at the discretion of the board.

(9) In determining whether to approve an application for a license as an advance deposit wagering hub operator under this chapter, the board shall consider the following factors:

(a) the impacts on all entities conducting business as part of the Montana horse racing industry;

(b) whether the board deems the state compliance and monitoring efforts of the state where the licensed hub operator is located are sufficient for compliance with applicable laws, and for the protection of the public, and to ensure the integrity of all operations and financial transactions under the agreement between the board and the licensed hub operator; and

(c) any other factor the board identifies on the record as relevant to its determination.

(10) The hub operator licensee recognizes and accepts the jurisdiction of the state of Montana as provided in Title 23, chapter 4, MCA. A licensed hub operator shall provide to the board or its staff access to review and audit all records and financial information, including all Montana account information. An advance deposit wagering hub operator physically located in Montana shall also provide access to the board, or its staff, to review and audit all records and financial information that relate to applications and accounts for persons whose primary residences are not located in Montana. This information shall be made available to the board or its staff at the hub operator's location upon notice from the board or board staff at all reasonable times. The board may require the hub operator annually to submit to the board audited financial statements.

AUTH: 23-4-202, MCA

IMP: 23-4-101, 23-4-301, 23-4-302, MCA

REASON: The proposed new rule is necessary to set forth requirements to be used for conducting advance deposit account wagering. The new rule will inform both hub operators and account holders of the procedures and requirements which must be followed in Montana to participate in advance deposit wagering on horse racing and greyhound racing. This new program was authorized by HB 390 passed by the 2007 Montana Legislature.

NEW RULE III ADVANCE DEPOSIT ACCOUNT WAGERING HUB OPERATOR APPLICATION AND LICENSE REQUIREMENTS (1) Prior to accepting applications from Montana residents for advance deposit wagering accounts, the advance deposit wagering hub operator must possess:

- (a) a written hub contract or license agreement with the board; and
 - (b) a license from the board to conduct advance deposit wagering.
- (2) An application to operate as an advance deposit wagering hub operator must be filed on a form provided by the board and must include:
- (a) a proposed plan of operation;
 - (b) a proposed hub contract;
 - (c) a bond or irrevocable letter of credit; and
 - (d) the correct application fee.
- (3) The advance deposit wagering hub operator applicant must provide the following information as part of the application:
- (a) if the hub operator is an individual, his/her legal name, and the legal name of his/her spouse, and dates of birth and address;
 - (b) if the hub operator is a corporation;
 - (i) the date and place of incorporation;
 - (ii) the names and addresses of its shareholders, and the names, addresses, and dates of birth of directors and officers who are natural persons;
 - (iii) if a shareholder is a corporation then the date and place of its incorporation, and the names, and addresses, and dates of birth of those corporations' directors and officers; and
 - (iv) if the hub operator is a corporation ultimately owned by a not-for-profit entity without any shareholders, or is a publicly traded corporation, the information required in this subsection shall be required from the directors of the not-for-profit entity, or the directors and officers of the publicly traded corporation, in lieu of the shareholders;
 - (c) if the hub operator is a general or limited partnership, the names, addresses, and dates of birth of the partners; if a partner is a corporation, the date of incorporation, the place of incorporation, and the names, and addresses, and dates of birth of its directors and officers must be provided;
 - (d) fingerprints, if required by the board;
 - (e) information from the hub operator that demonstrates whether the hub operator has the financial resources to operate as an advance deposit wagering hub operator;
 - (f) written approval to conduct advance deposit wagering from the appropriate regulatory authority in the state where the advance deposit wagering hub operator is located;
 - (g) a description of how the state where the hub operator is located regulates and monitors the advance deposit wagering facility for compliance with applicable law and protection of the public; and
 - (h) any other information required by the board.
- (4) A proposed written hub contract or license agreement between the advance deposit wagering hub operator and the board must be submitted with the application and must contain substantially the following terms:
- (a) a description of the source market fee (percentage of each wager placed in Montana) to be paid to the board;
 - (b) an agreement to pay the source market fee monthly to the board; and
 - (c) a provision requiring the facility to agree it shall not accept any wager that violates Montana law or rule.

(5) The board may negotiate changes to the proposed hub contract as a condition of granting a license. No subsequent material changes in the hub contract may occur unless ordered by the board or until written approval is obtained from the board.

(6) A proposed detailed plan of operations in a format and containing such information as required by the board must be submitted with the application and must address the following issues:

(a) the manner in which the proposed simulcasting and wagering system will operate;

(b) the process for handling wagers when wagering pools cannot be merged with the wagering pools of the race track where the race is being run live;

(c) a plan for verification of an account holder applicant's identity, age, and residence when establishing an account;

(d) establishment of a dispute resolution process for account holders who file a claim against the licensed hub operator;

(e) the process for an account holder to make withdrawals from the account holder's account;

(f) a licensed hub operator located in Montana must include in its operating plan information on how the hub operator will implement the requirements for accounts established and operated for persons whose principal residence is outside of the state of Montana; and

(g) any other issues as required by the board.

(7) The board may require changes to a hub operator applicant's proposed plan of operation as a condition of granting a license. No subsequent material changes in the plan of operations may occur unless ordered by the board or until written approval is obtained from the board.

(8) The advance deposit wagering hub operator applicant must provide a bond or irrevocable letter of credit to the board with the application, as per [NEW RULE II].

(9) The board may conduct investigations or inspections, or request additional information from the applicant for a license under this section as it deems appropriate in determining whether to approve the license application.

(10) The hub operator applicant must include the correct nonrefundable application fee with the application.

(11) An advance deposit wagering hub operator license shall be in effect from January 1 to December 31 of each year and shall be renewed annually unless otherwise rescinded by the board.

AUTH: 23-4-202, MCA

IMP: 23-4-101, 23-4-301, 23-4-302, MCA

REASON: The proposed new rule is necessary to set forth the hub operator application and licensing requirements to be used for conducting advance deposit account wagering. The new rule will inform potential applicants of all requirements to aid in consideration of application decisions and in the application process. This new program was authorized by HB 390 passed by the 2007 Montana Legislature.

NEW RULE IV ADVANCE DEPOSIT ACCOUNT WAGERING FEES

(1) A nonrefundable application fee of \$1000 must be submitted with all hub operator license applications to conduct advance deposit account wagering.

(2) The hub operator applicant will be billed and shall be responsible for any costs involved in background checks, investigation, and review of the application in excess of \$100.

(3) An annual license fee of \$500 shall be payable to the board on issuance of the original hub operator license, which fee shall not be prorated to the license issuance date.

(4) An annual hub operator license renewal fee of \$500 shall be paid by the licensee, and is due thirty days prior to the license expiration date.

(5) The hub operator licensee will be billed and shall be responsible for any costs involved in background checks, investigation, and review of the annual renewal application in excess of \$100.

AUTH: 23-4-202, MCA

IMP: 23-4-301, MCA

REASON: The proposed new rule is necessary to set forth fees to be paid upon application for a hub operator license and upon annual renewal of the license. The board estimates the new fee will generate one-time new application revenues of \$3000, and annual renewal revenues of \$1000, based on an estimate of two hub operator applicants. The new fee will affect two entities, based on an estimate of two applications in Montana.

NEW RULE V ESTABLISHMENT OF AN ADVANCE DEPOSIT ACCOUNT

(1) An established account is necessary to place advance deposit wagers. An account may only be established with a licensed hub operator.

(a) To establish an account, an account application form must be signed or otherwise authorized in a manner acceptable to the board and include:

(i) the account applicant's full legal name;

(ii) principal residence address;

(iii) telephone number;

(iv) proper identification or certification demonstrating that the account applicant is at least eighteen years of age;

(v) completed W-9; and

(vi) any additional information required by the board.

(b) Each account application submitted shall be verified by the licensed hub operator with respect to name, principal residence address, and date of birth by either an independent hub operator or another means which meets or exceeds the reliability, security, accuracy, privacy, and timeliness provided by an independent hub operator. If there is a discrepancy between the application submitted and the information provided by the verification described above, or if no information on the account applicant is available from such verification process, another individual reference service may be accessed or another technology meeting the requirements described above may be used to verify the information provided. If the account

applicant's information cannot be verified by the licensed hub operator, the licensed hub operator shall not establish an account.

(2) Each account shall have a unique identifying account number. The identifying account number may be changed at any time by the licensed hub operator provided the account holder is given notice in writing prior to the change.

(3) The account applicant shall supply a secure personal identification code when the account holder is placing an advance deposit wager. The account holder has the right to change this code at any time.

(4) The licensed hub operator must provide the following to the account holder at the time the account is approved:

(a) unique account identification number;

(b) copy of the advance deposit wagering rules and such other information and material that is pertinent to the operation of the account;

(c) notice that the account holder must be at least eighteen years of age, and that individuals under the age of eighteen shall not have access to the account;

(d) such other information as the licensed hub operator or the board may deem appropriate.

(5) Accounts shall only be accepted in the name of a natural person, which shall not include a corporation, partnership, limited liability company, trust, estate, or any other entity.

(6) The account is nontransferable between natural persons.

(7) The licensed hub operator may close or refuse to open an account for good and sufficient reason, and shall order an account closed if it is determined information that was used to open an account was false, or the account has been used in violation of these rules.

(8) Any disputes between an account holder and a licensed hub operator shall follow the dispute resolution procedures contained in the hub operator's plan of operations as approved by the board. If the hub operator fails to resolve the dispute, the board may take appropriate action including claims against the bond or other form of financial security.

(9) The licensed hub operator shall state in all advertising in the state of Montana that residents under the age of eighteen are not permitted to open, own, or have access to an advance deposit wagering account.

(10) If the licensed hub operator is located in Montana, no account shall be established for any natural person under the age of eighteen.

AUTH: 23-4-202, MCA

IMP: 23-4-101, 23-4-301, 23-4-302, MCA

REASON: The proposed new rule is necessary to set forth requirements for establishment of an advance deposit account with a Montana-licensed hub operator. The new rule will inform potential account holders of all information the hub operator must supply when an account is opened. This new program was authorized by HB 390 passed by the 2007 Montana Legislature.

NEW RULE VI OPERATION OF AN ADVANCE DEPOSIT ACCOUNT

(1) The licensed hub operator may refuse deposits to an account for good and sufficient reason.

(2) The licensed hub operator may suspend any account or close any account at any time provided when an account is closed, the hub operator shall, within seven calendar days, return to the account holder all moneys then on deposit by sending a check to the last known principal residence address. Any moneys which cannot be so refunded shall be forwarded to the board for distribution in accordance with [NEW RULE VII].

(3) Credits to an account after the initial establishment of the account may be made as follows:

(a) deposits to an account by an account holder may be made in the following forms:

(i) cash, which may be deposited at financial or retail outlets designated by the licensed hub operator;

(ii) check, money order, or negotiable order of withdrawal given or sent to the licensed hub operator;

(iii) charges made to an account holder's credit and/or debit card upon the direct and personal instruction of the account holder, if the use of the card has been approved by the licensed hub operator;

(iv) transfer by means of an electronic funds transfer from a monetary account controlled by an account holder to his/her account, said account holder to be liable for any charges imposed by the transmitting or receiving entity with such charges to be deducted from the account; or

(v) funds so deposited will be made available for wagering use in accordance with financial institution funds availability schedules.

(b) credit for winnings from wagers placed with funds in an account and credit for account wagers on entries that are scratched shall be posted to the account by the licensed hub operator.

(4) Debits to an account shall be made as follows:

(a) upon receipt by the licensed hub operator of an advance deposit wager, the licensed hub operator shall debit the account in the amount of the wager; and

(b) upon incurrence of fees for service or other transaction-related charges by the hub operator.

(5) The licensed hub operator may close accounts in which there has been no activity for at least six months, returning funds remaining therein to the account holder at his/her last known principal residence address. Any moneys which cannot be so refunded shall be forwarded to the board for distribution in accordance with [NEW RULE VII].

(6) In the event an account holder is deceased, funds accrued in the account shall be released to the decedent's legal representative upon receipt of a copy of a valid death certificate, tax releases or waivers, probate court authorizations, or other documents required by applicable laws.

(7) Account holders may communicate instructions concerning advance deposit wagers to the licensed hub operator in person, by mail, telephone, or other electronic means.

(8) The licensed hub operator shall not accept wagers from an account holder in an amount in excess of the account balance.

(9) Notwithstanding any other rules, the licensed hub operator may at any time declare the advance deposit wagering closed for receiving wagers on any parimutuel pool, race, group of races, or closed for all wagering. Any time advance deposit wagering is closed other than coincident with the start of a race, a written report must be filed with the board within 48 hours. Any time the licensed hub operator is closed during its normal hours of operation a written report must be filed with the board within 48 hours.

(10) The licensed hub operator has the right at any time and for what it deems good and sufficient reason to refuse to accept all or part of any wager.

(11) Accounts are for the personal use of the account holder. The account holder is responsible for maintaining the secrecy of the account number and his/her secure personal identification code.

(12) Payment on winning parimutuel wagers and credits for advance deposit wagers on entries which are scratched shall be posted to the credit of the account holder as soon as practicable after the race is declared official.

(13) The licensed hub operator shall provide written or electronic statements of an individual's account activity at any time upon the request of the account holder.

(14) No employee or agent of the licensed hub operator shall divulge any confidential information related to the placing of any wager or any confidential information related to the operation of the licensed hub operator, except to the account holder or as required by these rules, the board, and as otherwise required state or federal law.

AUTH: 23-4-202, MCA

IMP: 23-4-301, 23-4-302, MCA

REASON: The proposed new rule is necessary to set forth procedures for operations of an advance deposit account. The new rule will inform account holders of the processes to be used by the hub operator in opening, closing, debiting, and crediting an account. This new program was authorized by HB 390 passed by the 2007 Montana Legislature.

NEW RULE VII DISTRIBUTION OF SOURCE MARKET FEE FOR ADVANCE DEPOSIT ACCOUNT WAGERING (1) The licensed hub operator shall agree to pay to the board a source market fee in an amount equal to a percentage, as set forth in its hub contract or license agreement, of the total amount wagered by Montana residents from their accounts with the hub operator.

(2) The source market fee shall be paid monthly, unless otherwise directed by the board, for the source market fee area on all accounts that have Montana as the principal address.

(3) Source market fees from licensed hub operators must be deposited by the board in the board's state special revenue account.

(4) As set forth in 23-4-302, MCA, the board shall pay 80% of the source market fees generated between May 1 and the following April 30 to live race meet licensees based on each live race meet licensee's percentage of the total annual on-track parimutuel handle during the previous live race season. In addition to the statutory language, the total annual on-track simulcast handle during the previous

season shall be included in calculating a live race meet's percentage. Prior to the beginning of each year's live race season, the correct percentage must be distributed by the board to each live race meet licensee to be used for race purses or other purposes that the board considers appropriate for the good of the horseracing industry.

(5) As set forth in 23-4-302, MCA, ten percent of the source market fees paid to the board in a calendar year may be retained by the board for the payment of administrative expenses. One-half of the remaining 10% of the source market fees paid to the board in a calendar year must, by January 31 of the following calendar year, be paid to the owner bonus program and the other one-half to the breeder bonus program.

AUTH: 23-4-202, MCA

IMP: 23-4-302, MCA

REASON: The proposed new rule is necessary to set forth the process for distribution of the source market fee to live racing and owner and breeder bonus programs, in addition to the board's administrative fee. This new program was authorized by HB 390 passed by the 2007 Montana Legislature.

NEW RULE VIII ENFORCEMENT AND PENALTIES FOR ADVANCE DEPOSIT ACCOUNT WAGERING STATUTE OR RULE VIOLATIONS (1) Any violations of board statutes and rules shall be referred to the board. The board may also initiate an investigation on its own or in response to a complaint. The board shall have sole authority to ensure compliance with these rules, conduct hearings on violations, and determine penalties for violations. All license disciplinary activities, including any necessary contested case hearings, shall be conducted in Montana. Montana retains sole jurisdiction and is the sole and exclusive venue for administrative licensing actions and any related court actions under this chapter.

(2) The board may deny an application, suspend, or revoke a license issued to a hub operator, withdraw approval of a contract with a hub operator, or impose fines, if the licensee:

- (a) violates any of the requirements of board statutes or rules;
- (b) fails to provide a bond, or letter of credit, or evidence thereof in another jurisdiction to the satisfaction of the board;
- (c) fails to make payments in a timely manner as required by these rules;
- (d) fails to comply with any conditions on the license imposed by the board;
- (e) has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level. This includes, but is not limited to, failure to make required payments to other state regulatory agencies;
- (f) poses a threat to the effective regulation of wagering or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of wagering activities, as demonstrated through the prior activities, criminal record, reputation, habits, or associations;
- (g) fails to provide at the board office any information required under the board's rules within the time required by applicable rule, or if no maximum time has

been established respecting the particular kind of information by other rule, then within thirty days after receiving a written request from the board or its staff;

(h) commits, or has committed, any other act that the board determines constitutes a sufficient reason in the public interest for denying, suspending, or revoking licenses or approval of agreements.

(3) The board shall have authority to ensure compliance with its statutes and rules, including, but not limited to, injunctive relief and the imposition of fines, suspensions, and revocation of license, and repayment of outstanding source market fees.

AUTH: 23-4-202, MCA

IMP: 23-4-101, 23-4-301, 23-4-302, MCA

REASON: The proposed new rule is necessary to set forth enforcement and penalties for violation of Montana statutes and rules in operating advance deposit account wagering. The new rule will inform hub operators, account holders, and the public of board authority to impose license discipline. This new program was authorized by HB 390 passed by the 2007 Montana Legislature.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to the Board of Horse Racing, Attn. Marlys Stark, P.O. Box 200512, Helena, MT 59620-0512, by faxing to (406) 444-4305, or by e-mailing to mstark@mt.gov to be received no later than 5:00 p.m., February 14, 2008.

5. If persons who are directly affected by the proposed rules wish to express their data, views, or arguments orally or in writing at a public hearing, they must make a written request for a hearing and submit this request along with any written comments they have to the same address as above. The request for hearing and comments must be received no later than 5:00 p.m., February 14, 2008.

6. If the board receives a request for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Ten percent of those persons directly affected has been determined to be 130, based on the 1,300 licensees in Montana.

7. An electronic copy of this proposal notice is available through the department's web site at <http://www.liv.mt.gov/liv/horseracing/general.asp>.

8. The Board of Horse Racing maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding the Board of Horse Racing.

Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed to Marlys Stark, Board of Horse Racing, Department of Livestock, P.O. Box 200512, Helena, MT 59620-0512, faxed to (406) 444-4305, or e-mailed to mstark@mt.gov.

9. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled. The primary sponsor of House Bill 390 was notified on August 14, 2007 by letter sent via U.S. Mail.

BOARD OF HORSE RACING
DEPARTMENT OF LIVESTOCK

/s/ Christian Mackay
Christian Mackay
Executive Officer
Department of Livestock

/s/ Carol Grell Morris
Carol Grell Morris
Rule Reviewer

Certified to the Secretary of State January 7, 2008.